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10/091,067	03/04/2002	Anders Vinberg	063170.6875	8007

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EXAMINER	
LEE, PHILIP C	

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/091,067	VINBERG, ANDERS	
	Examiner	Art Unit	
	Philip C. Lee	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-24* is/are pending in the application.

4a) Of the above claim(s) *12,14 and 16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-11,13,15 and 17-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/16/06,7/31/06*,8/3/06
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. This action is responsive to the amendment and remarks filed on June 16, 2006.

2. Claims 1, 3-11, 13, 15 and 17-24 are presented for examination, claim 2 is canceled, and claims 12, 14 and 16 are withdrawn from consideration.

3. This application contains claims 12, 14 and 16 drawn to an invention nonelected without traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/12/06 has been entered.

5. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Claim Rejections – 35 USC 103

6. Claims 1, 4, 9, 13, 15, 17, 20-21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al, U.S. Patent 5,367,670 (hereinafter Ward) in view of Cote et al, U.S. Patent 6,021,262 (hereinafter Cote).

7. Ward was cited in the last office action.

8. As per claims 1, 13 and 15, Ward taught the invention as claimed for generating an audio alert, comprising:

detecting an alert condition (col. 5, lines 15-20)

determining a notification path associated with the alert condition (col. 8, line 64-col.9, lines 16; col. 12, lines 58-64);

constructing an audio notification message based on at least one parameter associated with the alert condition (col. 5, lines 21-32; col. 12, lines 34-64); and

outputting the audio notification message via the notification path (col. 7, lines 25-57).

9. Ward did not teach a multi-tiered notification path. Cote taught a similar invention comprising: a multi-tiered notification path, each tier of the notification path identifying one or more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28), the multi-tiered notification path determined based on a property of an object associated with the alert condition (col. 5, lines 33-46).

10. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's system by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36).

11. As per claim 4, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward further taught wherein detecting an alert condition includes detecting an alert condition within a plurality of subsystems of a network management application (col. 7, lines 19-24).

12. As per claim 9, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward further taught wherein the determining the notification path includes analyzing a parameter associated with the alert condition and selecting the notification path based on the parameter (col. 5, lines 33-45; col. 7, lines 19-27).

13. As per claim 17, Ward and Cote taught the invention substantially as claimed in claim 1 above. Cote further taught comprising identifying the occurrence of a prior alert condition that was not responded to, and wherein the multi-tier notification path is determined based at least in part on the occurrence of the prior alert condition (col. 7, lines 19-27).

14. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Cote for the same reason set forth in claim 1 above.

15. As per claim 20, Ward and Cote taught the invention substantially as claimed in claim 1 above. Although Cote taught constructing an additional notification (it is inherent that an additional notification must be constructed in order to notify another member at a later time) if the notification message is not addressed within a designated time limit, however Ward and Cote did not teach constructing if the notification message is not responded to within a designated time limit. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include constructing an additional notification if the notification message is responded within a designated time limit because by doing so it would increase the user's alertness in Ward's and Cote's systems by providing non-responded notification to others to avoid alert to escalate to a sever condition.

16. As per claim 21, Ward and Cote taught the invention substantially as claimed in claim 1 above. Cote further taught comprising constructing an additional audio notification message if the alert condition is not addressed within a designated time limit (col. 7, lines 17-27).

17. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Cote for the same reason set forth in claim 1 above.

18. As per claim 22, Ward and Cote taught the invention substantially as claimed in claim 1 above. Cote further taught comprising filtering the notification message such that at least one user on the multi-tiered notification path does not receive the notification message (col. 7, lines 19-27) (i.e. the manager (notification path) does not receive the notification message).

19. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Cote for the same reason set forth in claim 1 above.

20. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Fischer, U.S. Patent 4,881,197 (hereinafter Fischer).

21. Fischer was cited in the last office action.

22. As per claim 5, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach defining audio characteristics. Fischer taught defining audio characteristics associated with the audio notification message (col. 3, lines 38-42; col. 4, lines 3-21; col. 8, lines 31-45).

23. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Fischer because Fischer's

teaching of defining audio characteristics would increase the user's flexibility of Ward's and Cote's systems by allowing a user with a flexible and efficient mechanism for simultaneously utilizing the highlighting features distinctive to each particular device on which the document or message is displayed or produced (col. 4, lines 3-7).

24. As per claim 6, Ward, Cote and Fischer taught the invention substantially as claimed in claim 5 above. Fischer further taught wherein the audio characteristic is a volume (col. 3, lines 38-42; col. 4, lines 3-21; col. 8, lines 31-45).

25. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Fischer for the same reason set forth in claim 5 above.

26. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Sabourin et al, U.S. Patent 6,037,099 (hereinafter Sabourin).

27. Sabourin was cited in the last office action.

28. As per claim 3, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach identifying a portion of the message that is likely to be difficult to understand. Sabourin taught wherein constructing an audio notification message includes identifying a portion of the message that is likely to be difficult for a user to understand

and replacing the identified portion with a more easily understood synonym (col. 10, line 60-col. 11, lines 8).

29. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Sabourin because Sabourin's teaching of identifying a portion of the message that is likely to be difficult to understand would increase the alertness in Ward's and Cote's systems by allowing the system to find and replace words that tend to cause high confusability (col. 10, line 60-col. 11, line 8).

30. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Miller et al, U.S. Patent 6,421,707 (hereinafter Miller).

31. Miller was cited in the last office action.

32. As per claim 8, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach the audio message presented in accordance with a filter. Miller taught wherein the audio messages presented in accordance with a filter (col. 6, lines 30-40).

33. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Miller because Miller's teaching of audio messages presented in accordance with a filter would increase the user's

flexibility in Ward's and Cote's systems by allowing a user to determine how individual or groups of messages are handled, depending upon characteristics of the messages themselves (col. 6, lines 31-33).

34. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Carleton, U.S. Patent Application Publication 2001/0044840 (hereinafter Carleton).

35. Carleton was cited in the last office action.

36. As per claim 10, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach an escalation list. Carleton taught wherein determining the notification path includes analyzing an escalation list (page 1, paragraph 9; page 3, paragraph 53).

37. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Carleton because Carleton's teaching of escalation list would increase the alertness of Ward's and Cote's systems by providing a mechanism by which a problem can receive increasing levels of attention to expedite and assure proper remediation (page 1, paragraph 9).

38. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Goldberg et al, U.S. Patent 6,161,082 (hereinafter Goldberg).

39. Goldberg was cited in the last office action.

40. As per claim 11, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach audio message based on language preference. Goldberg taught wherein constructing the audio notification message includes:

determining a user associated with the audio notification message (col. 3, lines 34-56; col. 5, lines 22-24);

determining a language preference associated with the user (col. 3, lines 34-56; col. 5, lines 1-13, 25-34; col. 6, lines 27-28); and

constructing the audio message based on the language preference (col. 3, lines 34-56; col. 6, lines 34-38).

41. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Goldberg because Goldberg's teaching of audio message based on the language preference would increase the functionality of Ward's and Cote's systems by providing supports to multiple user and to translate communication inputs that are received in any of a wide variety of languages into communication outputs that are transmitted in any of a wide variety of languages (col. 2, lines 45-50).

42. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Jones et al, U. S. Patent Application Publication 2004/0210469 (hereinafter Jones).

43. As per claims 18 and 19, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach assigning the level of responsibility based upon the severity. Jones taught assigning the level of responsibility to each of the one or more user based upon the severity of the alert condition (page 2, paragraphs 29 and 33; page 9, paragraph 119).

44. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Jones because Jones's teaching of assigning the level of responsibility based upon the severity would increase the flexibility of Ward's and Cote's systems by controlling which management level or personnel will receive the alerting message based on the escalation level (page 3, paragraph 45).

45. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward and Cote in view of Lawson et al, U. S. Patent 6,185,613 (hereinafter Lawson).

46. As per claim 23, Ward and Cote taught the invention substantially as claimed in claim 1 above. Ward and Cote did not teach filtering based on a property associated with an object associated with the alert condition. Lawson taught comprising filtering the notification message

based on a property associated with an object associated with the alert condition (col. 5, lines 35-53).

47. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Lawson because Lawson's teaching of filtering based on a property associated with an object associated with the alert condition would increase the efficiency of their system by allowing a event consumer to prevent notification of irrelevant event (col. 5, lines 35-37).

48. As per claim 24, Ward, Cote and Lawson taught the invention substantially as claimed in claim 23 above. Although Lawson taught wherein the property is selected from the group consisting of a type of the object (col. 5, lines 35-53), a name of the object (col. 10, lines 33-37), a location of the object (col. 5, lines 35-53), the time of day (col. 16, lines 34-35), and any of the information available in the packet (col. 24, lines 36-41), however, Ward, Cote and Lawson did not specifically teach the severity of the alert condition, a level of risk, and an importance assigned to the object. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include different type of property such as severity, level of risk and importance of the object because by doing so it would increase the field of use in their system.

49. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward, Cote and Fischer in view of "Official Notice".

50. As per claim 7, Ward, Cote and Fischer taught the invention substantially as claimed in claim 5 above. Ward, Cote and Fischer did not specifically detailing different audio characteristics. "Official Notice" is taken for the concept of a balance as an audio characteristic is known and accepted in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include balance as an audio characteristic because by doing so would increase the user's flexibility by allowing a user to include any type of audio characteristics as a design choice.

51. Applicant's arguments with respect to claims 1, 3-11, 13,15 and 17-24, filed 6/16/06, have been fully considered but they are not persuasive.

52. In the remarks, applicant argued that

(1) the cited prior arts fail to teach multi-tiered notification path determined based on a property of an object associated with the alert condition

(2) examiner has not provided the requisite teaching, suggestion, or motivation, either in the cited references or in the knowledge general available to one of ordinary skill in the art at the time of Applicant's invention to modify or combine Ward with Cote.

(3) Examiner has not pointed to any portion of Ward or Cote that would teach or motivate one of ordinary skill in the art at the time of invention to the escalation procedure of Cote into system of Ward (without using applicant's claims as a guide).

(4) Jones fails to teach assigning the level of responsibility to each of the one or more users based upon a type of object associated with the alert condition.

(5) Examiner has not pointed to any portion of Ward, Cote or Fischer that would teach or motivate one of ordinary skill in the art at the time of invention to incorporate the document composition system using named formats and named fonts of Fischer into the system in Ward.

(6) Examiner has not pointed to any portion of reference that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to modify the system of Ward and the method of Cote to include the features in Sabourin, Miller, Carleton, Goldberg, Jones, and Larson.

(7) claim 7 is not well-known in the art and request a reference in support of the "Official Notice".

53. In response to point (1), Cote taught a similar invention comprising: a multi-tiered notification path, each tier of the notification path identifying one or more users assigned a level of responsibility with respect to the alert condition (col. 7, lines 19-28). Cote further taught whether to notify the administrator and other (tiers of notification path) based on pre-selected alert threshold for a link or software that is monitored by the monitoring software (col. 5, lines

33-46). This means the setting of alert threshold of a software is the property (threshold) of a software representation in the monitoring software (object representing the physical component being monitored in a program) associated with alert condition. Hence, Cote taught the multi-tiered notification path is determined based on a property of an object associated with the alert condition (col. 5, lines 33-46).

54. In response to points (2), (3), (5), and (6), as stated above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward and Cote because Cote's teaching of multi-tiered notification path would increase the user's flexibility of Ward's system by allowing the user to control how and when others are to be so notified (col. 2, lines 25-36). Specifically, Cote's teaching of an administrator selecting an escalation procedure in which members or manager with management responsibilities to be notified of a alert (multi-tiered notification path) would allow the administrator to control how and when others are to be so notified. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Using the teaching of Cote, one of ordinary skill in the art can modify Ward's system by programming Ward's system to provide user selection of escalation procedure associated with an alert, hence, increasing the user's flexibility to control the notification process in Ward's system. In response to applicant's

argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Similarly, as stated above, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Ward, Cote and Fischer because Fischer's teaching of defining audio characteristics would increase the user's flexibility of Ward's and Cote's systems by allowing a user with a flexible and efficient mechanism for simultaneously utilizing the highlighting features distinctive to each particular device on which the document or message is displayed or produced (col. 4, lines 3-7). Using Fischer's teaching of named font, a user in Ward's system can define audio characteristics associated with a document to be delivered (one ordinary skill in the art at the time of the invention was made would recognized a document to be delivered can be consider as a notification), hence increasing the user's flexibility to control the notification process by utilizing highlighting features of audio devices in Ward's system. Furthermore, one of ordinary skill in the art can modify the system of Ward and the method of Cote by incorporating the software (programming) or hardware to implement the features in Sabourin, Miller, Carleton, Goldberg, Jones, and Larson.

55. In response to point (4), Jones taught assigning escalation level to at least one user is based on alert information including the escalation level stored at the service center (a type of

object associated with the alert condition) (page 2, parag. 29).

56. In response to point (7), d'Alayer de Costemore d'Arc, U.S. Patent 5,271,063(col. 1, lines 12-38), Tanaka et al, U.S. Patent 4,665,494 (col. 1, lines 13-20), and Nortrup et al, U.S. Patent 4,626,892 (col. 3, lines 8-11) are references supporting the "Official Notice" taken for the concept of balance is an audio characteristic was known and accepted.

CONCLUSION

57. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions

on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER